

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CRIMINAL ACTION NO. 1:02-CR-54
(Judge Bunning)

UNITED STATES OF AMERICA

PLAINTIFF

VS.

ORDER

WALTER M. PUGH
TYREESE DORRAN PUGH

DEFENDANT

In order to comply with the Sentencing Reform Act,

IT IS ORDERED as follows:

1. Sentencing proceedings are hereby set in this case on **JANUARY 20, 2006 AT 1:00 P.M.** in Cincinnati, Ohio.
2. Receipt of this order shall constitute notice of defense counsel's opportunity to attend the presentence interview which shall take place within **ten (10) days** from the date of this Order. Defense counsel shall promptly contact the probation office to ascertain the time and place of the presentence interview.
3. Not less than **thirty (35) days** prior to the sentencing date, the probation officer shall provide a copy of the Presentence Investigation to counsel for Defendant and to the United States. Counsel for the defendant shall disclose the Presentence Investigation to Defendant. Within **fourteen (14) days** thereafter, counsel shall communicate to the probation officer and to opposing

counsel, in writing, all objections to the Presentence Investigation which could not be otherwise resolved, and the probation officer shall, to the extent necessary, investigate the matters of concern and, if warranted, revise the Presentence Investigation.

4. Not less than **seven (7) days** prior to the date of the sentencing hearing, the probation officer shall submit the Presentence Investigation to the sentencing judge. The report shall be accompanied by the written objections of counsel, and by an addendum setting forth any objections counsel may have made that have not been resolved, together with the probation officer's comments. The probation officer shall provide a copy of any addendum to the Presentence Investigation, including any revisions, to counsel for the defendant and the United States.

5. **Not less than seven (7) days prior to sentencing the parties shall file in the record a memorandum brief in support of their respective position on any unresolved objection(s) to the Presentence Report. This memorandum brief shall also address any particular 18 U.S.C. §3553(a) factors the parties believe the Court should emphasize at sentencing.**

6. Except with regard to any objection made under Paragraph 4 that has not been resolved, the Presentence Investigation may be accepted by the Court as accurate. The Court, however, for good cause, may allow a new objection to be raised at any time before

the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the probation officer, the defendant, or the United States.

7. The time set forth in this Order may be modified by the Court for good cause shown, except that the **thirty (35) day** period provided for disclosure of the Presentence Investigation pursuant to Criminal Rule 32(e)(2) may be diminished only with consent of the defendant.

8. Nothing in this Order requires disclosure of any portions of the Presentence Investigation that are not disclosable under Criminal Rule 32(d)(3) and 32(I)(1)(B). The probation officer's recommendation shall not be disclosed.

9. The Presentence Investigation shall be deemed disclosed:

- a) when the report is physically delivered to counsel;
- b) one day after the report's availability is orally communicated to counsel; or
- c) three days after notice of its availability is mailed to counsel, or the date of availability reflected in the notice, whichever is later.

10. The disclosure of the Presentence Report to the defendant shall be the responsibility of the defendant's counsel.

11. Following the Sentencing Hearing, the Probation Officer shall provide a copy of the Presentence Investigation to the Clerk of Court, who shall place it in the record under seal and flagged: **"Confidential Presentence Investigation Report to be Opened Only by**

the Court of Appeals Or By Order of the District Court," and at the time same time, the Probation Officer shall provide a copy of the sentencing recommendation and any other information submitted to the Court pursuant to Criminal Rule 32(e)(3) to the Clerk of Court, who shall place all Rule 32(e)(3) information under separate seal flagged: **"Confidential Rule 32(e)(3) Information -- Not to be Disclosed to the Parties. To be Opened Only by the Court of Appeals or by Order of the District Court."**

12. The general conditions of probation as set forth in the J&C Order shall apply to the defendant if placed on probation or supervised release, and all persons placed on probation or supervised release shall submit to photographs by the Probation Officer as a condition of probation or supervised release.

This 18th day of NOVEMBER, 2005.



Signed By:
David L. Bunning
United States District Judge